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**FILED**

**FEB 26 2013**

**SECRETARY, BOARD OF  
OIL, GAS & MINING**

**BEFORE THE BOARD OF OIL, GAS AND MINING  
DEPARTMENT OF NATURAL RESOURCES  
STATE OF UTAH**

<p>UTAH CHAPTER OF THE SIERRA CLUB, et al,</p> <p>Petitioners,</p> <p>vs.</p> <p>UTAH DIVISION OF OIL, GAS &amp; MINING,</p> <p>Respondent,</p> <p>ALTON COAL DEVELOPMENT, LLC and KANE COUNTY, UTAH,</p> <p>Respondent/Intervenors.</p>	<p><b>DIVISION'S JOINDER IN PETITIONERS' OPPOSITION TO ALTON'S MOTION TO FILE SUPPLEMENTAL MEMORANDUM AND MATERIALS</b></p> <p>Docket No. 2009-019 Cause No. C/025/005</p>
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The Utah Division of Oil, Gas and Mining, hereby joins in Petitioners' Opposition to Alton Coal Development LLC's Motion to file a supplemental memorandum and materials after the agreed upon deadline. Contrary to the assertion by Alton, the Division did not consent to filing of the supplemental materials.

There is no justification for this late filing of an additional memorandum and allegedly new information. This information was obtained from the Division's records or those of OSM and was fully available to Alton prior to the latest filing deadline. Alton was advised of the OSM position that the prior rule was still in effect well in advance of the February 19, 2013 deadline. The new submission unfairly burdens the Division and the

Board with the need to review additional correspondence with only days before the hearing. At best this “new” correspondence contains only additional innuendo and speculation as to possible intentions without allowing OSM or the Division a reasonable time to respond. The submission contains no record of any properly noticed, and reasoned OSM approval of the elimination of the previously adopted attorney fee rule and contradicts OSM’s recent contention that it has not approved a change in that rule. The submission contains no record of any Board action taken to change the attorney fee rule. Admission of this information only muddies the record and is merely a last minute attempt to bully the Board into hastily concluding that an obviously inadvertent failure to publish an adopted rule in subsequent reenactments of the administrative rules, trumps the authority of the Board to direct, and the authority of OSM to approve any changes to the Utah Coal Program.

If the Board allows filing of the memorandum and supplemental information, the Division joins in Petitioners’ request for additional time to file a responsive brief.

Dated this 26 day of February, 2013



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## CERTIFICATE OF DELIVERY

The undersigned does hereby certify that a true and correct copy of the foregoing Joinder in the Petitioners' Opposition to Alton's filing of a supplemental memoranda was delivered to the following persons at the addresses shown this 26 day of February, 2013

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